

Appl. No.: 10/621,509

Applicant : Yaron Mayer

Reply to Office action of Nov. 17, 2006

REMARKS/ARGUMENTS

1. In response to your advisory action of Apr. 25, 2007, since I couldn't reach you on the phone, as you know, I spoke on the phone on May 14, 2007 with supervisor Hosain Alam. Mr. Alam said that there should be no problem with the words “capable of checking” and “enabling the user” since he understands that I made this amendment in order to solve the clarity issue. Also, I would like to remind you again, as I explained also in my reply of Apr. 17, 2007, that I changed in clause d of claim 1 the words ‘can check’ to ‘is capable of checking’ because you yourself said on our phone conversation of Apr. 6, 2007 that the word ‘can’ is less clear and you said that I should correct it to ‘capable of checking’. Similarly, the reason that I changed in various places the words about user ability or “the use can” to “the system enables the user” was in order to correct the clarity issue of the word “can” and to comply with what previous examiner Frantz Coby said at the top of page 3 of the last office action about the clarity problem with the words “an ability”. Therefore I respectfully submit that these amendments were in direct compliance with the clarification requirements of the final action, and I respectfully submit that they do not raise new issues because they simply clarify the claims as requested, and I respectfully submit that you already agreed that the words “capable of checking” do overcome the 112 issue, since these are exactly the words that you said that I should use in our phone conversation of Apr. 6, 2007. I also tried to reach you on the phone many times during the last few days to discuss these words.

2. Regarding new claim 56, I don't understand why it is relevant if another claim was canceled since I paid for this claim. In addition, as I explained in my reply of April 27, 2007, this claim does not raise any new issue since claim 56 is simply a subset of clauses that already existed in dependent claims 8 and 11, so no new

consideration or search are needed, and since the independent claims should be allowed, the dependent claims should also be allowed since they recite additional patentable matter over the independent claims, and therefore I request that this claim should also be allowed. However, if you still think that this is a problem you may remove this claim, eventhough, as I explained, there is no reason to do this.

3. On the other hand, Mr. Alam said that since Franz Copy quoted in the last office action a prior art against related application 10/328,088, I should explain now in my reply to this advisory action why the prior art quoted by Franz Coby on related application 10/328,088 is not relevant. Therefore, I am hereby explaining in writing about the prior art in question. This prior art quoted by Frantz Copy is US application 20060031121 by Speicher, which was quoted for 102 rejection for claims 58-62 in application 10/328,088, and was quoted for obviousness in relation to published document RFC 2778, which is just a general document about Instant Messaging which has nothing to do with dating (The exact reference for RFC 2778 has already been included in an IDS which I filed already for both the present application and 10/328,088, and in addition, it was already considered by the examiner when I submitted the IDS for the present application). As I explained to you already in our phone conversation about 10/328,088 on Apr. 6, 2007, this is completely irrelevant for the 102 rejection since these claims about pictures are very different from what is described in Speicher (this is explained in more detail below), and the obviousness rejection is completely irrelevant because the Speicher application is just another application about Online dating which has nothing whatsoever to do with Instant Messaging and is no more relevant than any of the other prior art previously quoted by the examiner, and does not add anything new. (Similarly the basic features of Instant Messaging networks described in RFC 2778, such as being able to check if a user is Currently Online on the Internet and being able to send instant messages, are well known and are in fact the very definition of Instant Messaging networks, and have also been clearly described in the background section of 10/328,088 and of the present application). In addition, the Speicher application was not even published at the time I filed the PCT application of which both the present application and application 10/328,088

are a CIP, and in fact it was not even published at the time I filed these applications themselves, but even if it had been published it would have made no difference whatsoever, as explained above. In addition, the fact that there are Online dating services and there are Instant Messaging networks and their basic features have been quite explicitly explained already in the background section of application 10/328,088 and of the present application, so the examiner (Frantz Coby) has already known this right from the beginning but did not think this was obvious. In addition, as I explained to you on our phone conversation of Apr. 6, 2007, there is also a very strong statistical evidence that shows that this is not obvious: Since Both online dating services and Instant Messaging have existed already since 1996 and yet for many years no one integrated them before in the ways described in my application, and in fact Online dating services started doing this only within the year AFTER my PCT (of which both 10/328,088 and the present application are a CIP) was published (PCT/IL 01/00572, which was filed in Israel on June 24, 2001), this is very strong evidence that this is certainly not obvious and was not obvious to them until AFTER my PCT was published, and also that apparently they were affected by the publication of my PCT, as explained also in the IDS which I filed for application 10/328,088 and for the present application. These are very important features because they make the Internet dating services much more efficient and enable instant communication with potential dates, and if it had been obvious then they would have thought about it before and would have done it much earlier (or would have at least discussed it publicly, or for example at least some of the users would have discussed it publicly) since it makes the service much better. Therefore, this is very strong statistical evidence which shows how non-obvious this really is. I would also like to remind you that after I explained this to you on our phone conversation of Apr. 6, 2007 you agreed that this seems convincing and merely said that I should explain this in writing. Therefore, due to the above reasons, to claim now that this is obvious would be completely cynical and unfair and in complete ignorance of the strong evidence and of the history in this case, and would be merely hindsight bias. In

addition, as explained above, bringing out this prior art now doesn't add anything new that was not known before.

4. As for the 102 rejection for claims 58-62 of 10/328,088 based on Speicher, I would like to further explain that the Speicher application merely talks about using photographs in the dating service, which is nothing new, whereas in the present applications and in 10/328,088 the relevant claims talk about something very different. As I already explained in my reply to the first office action of 10/328,088, in which Mr. Coby quoted two other applications about using user-submitted photos in dating sites, the “idea” that the user can submit his/her own photo is of course not new and has been used on the Internet and in dating services for a long time. However, 10/328,088 and the present application claim something very different, which is a very novel concept!: The problem with relying on the users to submit their own photo is that many users do not do it (typically only some of the users agree to submit their photo), and therefore it does not help much. Therefore, such a photo can typically only be displayed near each of the matches for which a photo is available (so typically if there are for example 20 matches, typically only some of them will be able to have a photo attached to them). In addition, in the existing systems the photo was not used in any way as part of the selection criteria during the automatic matching process itself. The relevant claims both in 10/328,088 and in the present application show how to use a systematic database of pictures or images to which the users relate in marking their own self appearance and the appearance of the desired dates, which solves both of the above problems: The user does not have to submit his/her actual photo, AND this can be used as one of the criteria for the automatic matching process itself. **THIS IS VERY DIFFERENT FROM THE PRIOR ART AND FROM ALL THE PATENTS** quoted by Mr. Coby. In addition, in the present application there is a claim (claim 21) about the system enabling the user to request the system to show him/her automatically photos which are similar to one or more photos of actual opposite sex users which the user likes, which is also a feature not covered by the Speicher application. In order to make this even more clear I have added a few more words to claim 21 which clarify this even further.

(Since these few words are a limitation which further clarifies the meaning of the claim, no new consideration or search is needed for this amendment).

In addition, I would like to remind you again that as explained in the background section of 10/328,088 and of the present application and in my reply to the first office action of 10/328,088, the present invention is much more sophisticated and with much more advance over the prior art than the other two quoted dating patents, and yet they were granted, so it would be very unfair not to grant the present application.

Therefore, I respectfully request that the rejection be withdrawn and a timely Notice of Allowance be issued in this case. Alternatively, if you do not issue the notice of allowance at this stage, then at least the finality of the rejection should be withdrawn and a new non final office action should be issued, since Mr. Alam agreed on our phone conversation of May. 14, 2007 that this is justified due to his raising the issue of the prior art quoted by Mr. Coby in 10/328,088. In addition, this is justified because the correction of the word ‘can’ was a new issue raised by you on our phone conversation of Apr. 6, 2007. I have talked about this point again with Mr. Alam on the phone on May 16, 2007 and explained to him that it is not fair that I have to deal with two new issues that were raised only a month ago (the word ‘can’) and two days ago (the issue of replying also now about the prior art quoted in the last office action of 10/328,088) and were not in the original office action, and Mr. Alam confirmed again that he agrees that due to the above reasons if the application is not allowed now then the finality of the last office action will be withdrawn and a new non-final office action will be issued.

However, as explained above, in all due fairness the application should be allowed now.

Respectfully submitted,

Yaron Mayer

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